



United States  
Department of  
Agriculture

Farmers  
Home  
Administration

Washington  
D.C.  
20250

FmHA AN No. 1612 (1962)

June 24, 1987

SUBJECT: Releasing Security Sales Proceeds and Determining  
"Essential" Family Living and Farm Operating Expenses

TO: All State Directors, State Directors-at-Large, and  
Farmer Programs Chiefs, FmHA

PURPOSE/INTENDED OUTCOME

The purpose of this AN is to give guidance on preventing disagreements over the amount of security sale proceeds to be released and over the "essential" nature of an expense prior to sending either Exhibit D or E to Subpart A of part 1955 to farmer program borrowers.

COMPARISON WITH PREVIOUS AN

No previous AN has been issued on this subject.

IMPLEMENTATION RESPONSIBILITIES

The Food Security Act of 1985 and FmHA Instructions require FmHA to release security sale proceeds so that borrowers will be able to pay "essential" family living and farm operating expenses. FmHA Instructions 1924-B and 1962-A require the use of Form FmHA 1962-1 to show what items of FmHA security will be sold and what releases will be made for essential and nonessential expenses. When a borrower's sale proceeds meet or exceed expenses, there will probably be very few disputes between FmHA and the borrower about releases. However, it is possible that disagreements will arise when proceeds turn out to be less than expenses. These disagreements will fall into two general categories. First, there will be disagreements over the amount of proceeds which should be released. Second, there will be disagreements over the "essential" nature of a particular expense.

EXPIRATION DATE: May 31, 1988      FILING INSTRUCTIONS: Preceding  
FmHA Instruction 1962-A



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### Family Living Expenses

Expenses for household operating, food, clothing, medical care, house repair, transportation, insurance and household appliances, i.e., stove, refrigerator, etc., are essential family living expenses. We do not expect there will be any disagreements over this. However, when proceeds are less than expenses, there might be disagreements about the amounts FmHA should release to pay for particular items within these broad categories. For example, FmHA has to release for transportation expenses, but should FmHA release so that a borrower can buy a new car? If, at planning time, it appears that there will be sales proceeds available to pay for the borrower's operating and living expenses, including the expense of a new car, the Form FmHA 1962-1 can be completed to show that FmHA plans to release for a new car. On the other hand, it would also be proper to complete the Form FmHA 1962-1 to release for a used car or for gas and repairs to the borrower's present car. The Food Security Act requires FmHA to release for essential family living expenses and because transportation is an essential family living expense, some proceeds must be released for that broad purpose. However, nothing requires us to release for a specific expense; usually, there will be several ways to use proceeds to provide for essential family living expenses. To comply with Coleman v. Block we must provide the borrower with a written decision and an opportunity to appeal whenever there is a disagreement over the use of proceeds or whenever we reject a request for a release.

### Farm Operating Expenses

We would expect farm operating expenses to present more of a problem than family living expenses. There will probably be a few disagreements over whether an expense is an operating expense (as opposed to a capital expense), but it is more likely that there will be disagreements over the amount FmHA should release for operating expenses and over whether a particular farm operating expense is "essential." As is the case with family living expenses, disagreements will most likely arise when proceeds are less than expenses.

To resolve disputes over the amount to be released, remember that we are complying with the Food Security Act as long as we are reasonable and release enough to pay for essential farm operating expenses. Although a borrower might not always agree that enough money is being released, if the borrower's essential farm operating expenses are being paid, we are fulfilling the requirements of the statute. As long as we provide the borrower with an opportunity to appeal when there is a disagreement over the use of proceeds or when we reject a request for a release, we are complying with the Coleman v. Block decision.

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We must decide what farm operating expenses are "essential" and we must release to pay those expenses. FmHA Instruction 1962.17 of FmHA Instruction 1962-A states that essential expenses are those which are "basic, crucial or indispensable." Whether an expense is basic, crucial or indispensable depends on the circumstances. For example, feed is a farm operating expense, but it is not always an essential expense. If adequate pasture is available to meet the needs of the borrower's animals, feed is not essential. Feed is essential if animals are confined in lots. Hiring a custom harvester is a farm operating expense, but is not an essential expense if the farmer has the equipment and labor to harvest the crop just as well as a custom harvester. Hired labor is an operating expense which might be essential in a dairy operation but not in a beef cattle operation. Payments to creditors are essential if the creditor is unable to restructure the debt or to carry the debt delinquent. Renting land is not essential if the borrower plans to use it to grow corn which can be purchased for less than the cost of production. Paying outstanding bills is essential if a supplier is refusing to provide additional credit but not if the supplier is willing to carry a balance due. Of course, the long term goal of any farming operation is to pay all of its expenses but when this is not possible, FmHA and the borrower must work together to decide which farm operating expenses demand immediate attention and cannot be neglected and those are the essential expenses.

We absolutely must release to pay for essential family living and farm operating expenses; there are no exceptions to this. When deciding whether an expense is essential and when deciding how much to release, the choices we make must be rational, reasonable, fair and not extreme. They must be based on sound judgment, supported by facts and explained to the borrower. Following these rules will help us avoid disagreements with borrowers.



VANCE L. CLARK  
Administrator

Sent by electronic mail on 06/26/87 at 9:33 am. by ASD IMPS.  
The State Director should advise other personnel as appropriate.